HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1745 of 2001 (MS)
(Old No. 4328/99)

Garhwal Mandal Vikas Nigam Ltd; through its Managing Director ..... Petitioner

Versus

1. Presiding Officer, Labour Court, Uttar Pradesh, Dehradun
2. Dalip Singh son of Sri O.P. Singh resident of 674 Indira Nagar Colony, Dehradun ..... Respondents

Sri U.K. Uniyal Sr. Advocate assisted Anurag Bisaria for the petitioner
Sri A.K. Sharma, Advocate for respondent no. 2
Standing Counsel for respondent no.1

Dated: 4.7.2006

Hon'ble Rajesh Tandon, J.

Heard Sri U.K. Uniyal assisted by Sri Anurag Bisaria for the petitioner, Sri A.K. Sharma, Advocate for respondent no. 2 and the Standing Counsel for respondent no. 1.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the award dated 16.5.1998 passed by the respondent no. 1.

Briefly stated respondent no. 2 was an employee of the petitioner and was posted on the post of receptionist. Several complaints were received against the respondent no. 2 and he was

placed under suspension by the petitioner and departmental inquiry was conducted against him. The inquiry officer submitted his report on 17.7.1996 and held that the charges were found fully proved against the respondent no. 2. The Managing Director vide order dated 8.8.1996 issued show cause notice to the respondent no. 2, who submitted his reply and tendered apology. The Managing Director vide order dated 13.12.1996 ordered the removal of the respondent no. 2 from service of the petitioner Corporation.

The respondent no. 2. raised industrial dispute, which was registered as Adjudication Case No. 182 of 1997 under Section 4K of U.P. Industrial Disputes Act, 1947. The petitioner has submitted his written statement and the case was heard by the Labour Court. After considering the submissions of both the parties the respondent 1 vide order dated 16.5.1998 has held that the removal of the respondent no. 2 from the service of the petitioner was improper and invalid and punishment was not commensurate with the charges against the respondent no. 2 and accordingly directed re-instatement of the respondent no. 2 in service. The petitioner was also directed to pay the arrears of salary during the period of suspension and thereafter 50% of the salary from the date of removal. A sum of Rs. 500/- was also awarded to the respondent no. 2 as costs.

At the time of hearing of the writ petition, the petitioner has confined his prayer for setting aside the award to the extent of 50% back wages awarded in favour of the respondent no. 2. The counsel for the respondent no. 2 has also very fairly conceded that he would not claim back wages.

I have gone through the record and I find that the judgment and award passed by the Labour Court is perfectly justified. The Labour Court has scrutinized the evidence adduced by the parties and thereafter arrived to the conclusion that the order of dismissal of the respondent is bad in law.

In view of the above I find no reason to interfere with the findings arrived at by the Labour Court under Article 226/227 of the Constitution of India.

Consequently, the judgment and award passed by the respondent no. 1 is modified to the extent that the respondent no. 2 shall not be entitled to any back wages from the date of his removal from the service till his re-instatement. Rest part of the award-dated 16.5.1998 passed by the Labour Court is affirmed.

Accordingly, writ petition is partly allowed. No order as to costs.

Dated: 4.7.2006 **Rajesh Tandon, J.**

*Dhyani